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1 UNITED STATES DISTRICT COURT
2 DISTRICT OF MASSACHUSETTS
3 IN ADMIRALTY
4
5

6 *****

7 GREAT LAKES INSURANCE SE

8 vs.

4:20-cv-40020-DHH

9 MARTIN ANDERSSON

10 *****

11

12

13

14 DEPOSITION BY ZOOM OF OTTO A. GEIGER, a witness
15 called on behalf of the Plaintiff, pursuant to the
16 Rules of Civil Procedure, before Karen D. Pomeroy,
17 Registered Diplomate Reporter and Notary Public in
18 and for the Commonwealth of Massachusetts, at 355
19 City View Drive, Fort Lauderdale, Florida, on
20 Wednesday, March 16th, 2022, commencing at 9:02 a.m.
21
22
23
24

0002

1 APPEARANCES:

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6 For the Plaintiff
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13 For the Defendant
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24 Exhibit Attached

0004

1 STIPULATIONS

2 It is stipulated by and between counsel for
3 the respective parties that the deposition
4 transcript is to be read and signed by the
5 deponent under the pains and penalties of
6 perjury; and that the sealing and filing thereof
7 are waived; and that all objections, except as to
8 form, and motions to strike are reserved until
9 the time of trial.

10

* * *

11

12 OTTO A. GEIGER,
13 having been duly remotely sworn by the
14 reporter, was deposed and testified as
15 follows:

16

EXAMINATION

17 BY MR. GOLDMAN:

18 Q. Good morning, Captain Geiger.

19 A. Good morning.

20 Q. Is that the proper title to address you with?
21 Captain.

22 A. Captain; Otto; any way you like.

23 Q. Splendid. All right. For the record, my name's
24 Michael Goldman. I'm from the law firm of
Goldman & Hellman. I represent Great Lakes

0005

1 Insurance in this matter, and, sir, we're here to
2 take your deposition.

3 As Michelle knows, I have a little speech I
4 have to give, just to make sure we get everything
5 right and that we get a good record.

6 First, we have to obey certain courtesies
7 with one another. We have to work as hard as we
8 can to wait patiently for everyone to finish
9 speaking and then speak in their own turn. Of
10 course, this is even more important in the Zoom
11 age where everyone talks over each other and we
12 get interference and no one can hear a thing.

13 I'll ask you to wait patiently until I'm done
14 phrasing my question, and I'll try my very best,
15 of course, to be patient while you give your full
16 answer.

17 Even though we can see each other, all your
18 answers have to be verbal, sir. You can't nod
19 your head, say uh-huh, shrug your shoulders,
20 anything like that.

21 When I ask a question, please don't guess.
22 If you know the answer, say so. And if you don't
23 know the answer, just say so.

24 If you don't understand my question or you

0006

1 want me to clarify, just say so; and I'll phrase
2 my question differently. I'll try to put a
3 better question. The whole point is to get the
4 clearest answers that we can.

5 If at any point you want to take a break,
6 just ask. This isn't meant to be a test of
7 stamina. Anytime you want to get a drink, go to
8 the bathroom, just take five minutes to collect
9 yourself, just say so.

10 Is everybody's phone off?

11 MS. NIEMEYER: Not mine.

12 MR. GOLDMAN: Right.

13 BY MR. GOLDMAN:

14 Q. All right. First, a warm-up round. For the
15 record, can you please state your full name, your
16 date of birth, and your current residential
17 address.

18 A. It's Otto Armin Geiger. Birth date is
19 [REDACTED] and residential address is
20 [REDACTED] Fort Lauderdale 33311.

21 Q. Are you married?

22 A. Yes.

23 Q. Congratulations. I say that either way; no
24 matter how they answer.

0007

- 1 Are you employed?
- 2 A. I am.
- 3 Q. Who is your current employer?
- 4 A. Viking, LLC.
- 5 Q. What is Viking, LLC?
- 6 A. It's just a company that runs a vessel.
- 7 Q. What vessel?
- 8 A. It's a Viking Princess 75.
- 9 Q. What do they do with it?
- 10 A. It's private use only. Family use.
- 11 Q. What is your role in the company?
- 12 A. I'm a captain. Captain, engineer, chief bottle
- 13 washer.
- 14 Q. How long have you worked for them?
- 15 A. In August it will be two years.
- 16 Q. Have you ever been a plaintiff or a defendant in
- 17 any litigation?
- 18 A. No.
- 19 Q. Have you ever been convicted of a crime?
- 20 A. No.
- 21 Q. Have you ever pled guilty or pled no contest to a
- 22 crime?
- 23 A. No.
- 24 Q. Are you a high school graduate?

0008

- 1 A. Yeah.
- 2 Q. Where did you go to high school? Excuse me for
- 3 interrupting. Go ahead; answer?
- 4 A. Hillcrest High School in South Africa.
- 5 Q. Do you have any post-high school education?
- 6 A. No, unless you count mariner certifications.
- 7 Q. Good. We'll get to that. Do you have any kind
- 8 of professional licenses or certifications?
- 9 A. I'm not sure I understand your question.
- 10 Q. Well, for instance, in order to practice law, I
- 11 have to go to law school and get a degree, and
- 12 then I also have to pass the bar exam.
- 13 In order to practice your trade, do you have
- 14 to obtain any sort of certifications or permits
- 15 or licenses like that?
- 16 A. Correct. I have to have a captain's license.
- 17 Q. Who issued you your captain's license?
- 18 A. I've got South African sailing licenses; a
- 19 Yachtmaster Ocean, which is celestial navigation,
- 20 the highest one you can get, which is equivalent
- 21 to a Royal Yachting Association license.
- 22 I also have a Royal Yachting Association
- 23 license which is endorsed by the MCA, which is
- 24 the Maritime and Coastguard Agency in the UK; and

0009

1 that's up to 200 tons.

2 Q. Looking at your resumé with reference to that,
3 what is a Viking Princess 75?

4 A. It's a motor yacht. A flybridge motor yacht.

5 Q. Did anyone else serve on that vessel with you?

6 A. No.

7 Q. Was there any crew on the vessel while you were
8 serving on board?

9 A. I'm still serving on board.

10 Q. Is there any crew serving on the vessel
11 currently?

12 A. No.

13 Q. On your resumé, where it references that you're a
14 captain/engineer of a Viking 75, what does the
15 next part of that statement mean, towing a
16 31-foot center console?

17 A. It means I tow a center console -- 31-foot center
18 console when we go away.

19 Q. Where do you tow it from?

20 A. From Fort Lauderdale to wherever the owner wants
21 to go.

22 Q. Who's the owner?

23 A. The company I gave you, Viking 5 LLC.

24 Q. Continuing to go through your resumé. From

0010

1 January 2020 to July 2020, what kind of vessels
2 did you serve aboard?

3 A. From January 2020 -- can you pull up the resumé
4 so I can look at it.

5 MR. GOLDMAN: Let's -- I wasn't going to do
6 it until later, but let's enter it as an exhibit.

7 THE WITNESS: Okay.

8 MR. GOLDMAN: And -- I'm sorry. I don't have
9 the ability to project it.

10 Do you, Michelle?

11 MS. NIEMEYER: It should be part of our Zoom
12 capability. Hold on. Let me see.

13 THE WITNESS: Wait. I think I have a copy of
14 it. Let me have a look here.

15 MR. GOLDMAN: Let's go off the record for a
16 moment.

17 THE WITNESS: Okay. So you want January
18 2020. Various deliveries and sea trials for the
19 major yacht brokers and private individuals.

20 Okay. I'm prepared to answer.

21 MR. GOLDMAN: Mr. Geiger, hold on a second.
22 I'm sorry. I said we were going to go off the
23 record; so I don't want to start again until I
24 verify that we are back on the record.

0011

1 Thank you, Karen. We just got the thumbs up.

2 So let me start my question again, Mr. Geiger.

3 Let me state it again, and then you can answer.

4 BY MR. GOLDMAN:

5 Q. From January 2020 to July 2020, what kind of
6 vessels did you serve aboard?

7 A. Various catamarans; motor yachts. Most of the
8 vessels I move around were going in for repair or
9 being moved to various destinations by brokers or
10 new owners. Either they're going in for repair,
11 or they're getting relocated to a different
12 address.

13 Q. Where did you deliver these vessels to?

14 A. All over. Some are local. Like I can move them
15 between like a dock in Fort Lauderdale to a
16 different dock in Fort Lauderdale, or I'd be
17 taking vessels from Fort Lauderdale down to the
18 Caribbean or from Fort Lauderdale to Texas;
19 Fort Lauderdale up to Maine.

20 Various destinations. I move boats
21 worldwide.

22 Q. During any of these trips, did you ever sail
23 single-handed on a three-day voyage?

24 A. I did a delivery of a 36-foot Hunter sailboat

0012

1 single-handed from Cape May to Cape Cod.

2 Q. I didn't hear from where to where. Can you
3 repeat that. It was a bad connection for a
4 moment.

5 A. Cape May to Cape Cod.

6 Q. Now, I'm in Boston; so I know where Cape Cod is,
7 but can you refresh my recollection, where is
8 Cape May?

9 A. New Jersey.

10 Q. How long did that trip take you?

11 A. That one was about I think 37 hours.

12 Q. Have you ever been deposed before today?

13 A. No.

14 Q. Have you ever testified in a court as an expert
15 witness?

16 A. No.

17 Q. Do you have any experience as a marine accident
18 investigator?

19 A. No. I'm not a surveyor.

20 Q. Do you have any experience as a marine surveyor?

21 A. No.

22 Q. Do you have any experience as a marine insurance
23 loss adjuster?

24 A. No.

0013

1 Q. In preparation for drafting your report and for
2 this deposition, did you review any legal
3 treatises or legal publications analyzing the
4 legal requirements for a vessel to be considered
5 seaworthy?

6 A. I haven't. I've gone on my experience and what
7 surveys have been on the table.

8 Q. I think -- I'm going to ask the question again
9 because -- with a different emphasis, because I
10 want to make sure we get a clear answer.

11 In preparation for drafting your report and
12 this deposition, did you review any legal
13 treatises, statements of law, legal publications,
14 law review articles analyzing what courts have
15 held to be the legal requirements for a vessel to
16 be considered seaworthy?

17 A. No.

18 Q. Did you read any published court decisions
19 analyzing or stating the legal requirements for a
20 vessel to be considered seaworthy?

21 A. No.

22 MR. GOLDMAN: Let's go off the record for
23 just a moment.

24 (Recess was taken from 9:15 a.m. until 9:17 a.m.)

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1 MS. NIEMEYER: So the issue I wanted to raise
2 was, Michael, I know that you asked questions of
3 Mr. Geiger or Captain Geiger about his -- whether
4 he did legal research about the -- what
5 seaworthiness means.

6 So that everyone is talking from the same
7 point of view, if -- I think it would be
8 appropriate at this point for you to enlighten
9 him on what you expect him to under- -- to
10 take -- what meaning are you questioning him
11 about?

12 MR. GOLDMAN: When I get to that, I will ask
13 further questions.

14 MS. NIEMEYER: But I just -- I don't want to
15 have any lack of clarity if you're -- he's not
16 here as a legal expert, as we all know; but if
17 you're asking questions where you expect him to
18 have an understanding that's the same as yours of
19 what seaworthiness means, I want to make sure we
20 have that clarified in the record so that
21 Mr. Geiger or Captain Geiger isn't making things
22 unclear because you're not talking about the same
23 thing.

24 MR. GOLDMAN: When I get to that, you can be

0015

1 assured I will ask the questions.

2 MS. NIEMEYER: All right.

3 MR. GOLDMAN: Just one moment.

4 (Pause in the proceedings.)

5 BY MR. GOLDMAN:

6 Q. All right. Captain Geiger, do you have in front
7 of you your report which is titled Report of
8 Expert Witness Otto Geiger?

9 A. I do.

10 Q. Have you ever seen this document before today?

11 A. Yes.

12 Q. Who drafted it?

13 A. I did.

14 Q. Who asked you to draft it?

15 A. Michelle Niemeyer.

16 Q. All right. Per our discussion, we'll be entering
17 this expert report into the record as Exhibit 44.

18 Can you please read paragraph 3 to yourself
19 and then tell me when you're done.

20 A. Okay. I've read it.

21 Q. Can you tell me what the difference is between
22 beating and a close reach?

23 A. Beating is a more direct course into the wind.
24 You're going in the direction that the wind is

0016

1 blowing from.

2 Q. Turning to paragraph 5 of your report, do you
3 know if there's anything in Mr. Andersson's
4 testimony which states the direction of the
5 current during any portion of his voyage?

6 A. I don't need to look at Mr. Andersson's report to
7 know the direction of the current.

8 Q. That's not what I asked, sir.

9 A. Then please say your question again.

10 Q. Is there anything in his deposition which states
11 the direction of the current during any portion
12 of his voyage?

13 Are you looking at something other than your
14 report, sir?

15 A. No, I'm looking at my report. Okay.

16 Could you repeat your question.

17 Q. Is there anything that you recall in
18 Mr. Andersson's testimony which states the
19 direction or the speed of the current during any
20 portion of his voyage?

21 A. No.

22 Q. Are you aware that Mr. Andersson testified that
23 at some point after departing Aruba, he changed
24 course for Puerto Rico?

0017

- 1 A. Yes.
- 2 Q. Do you know when in his voyage he changed course
- 3 for Puerto Rico?
- 4 A. I'm not a hundred percent sure.
- 5 Q. Do you remember how many hours after he departed
- 6 he changed course for Puerto Rico?
- 7 A. As I recall, I think it's about 36 hours;
- 8 somewhere around there.
- 9 Q. Can you repeat that. You broke up. I didn't
- 10 hear how many hours.
- 11 A. I think around 36 hours.
- 12 Q. Was that 56? Five-six?
- 13 A. Three. Three-six.
- 14 Q. Three-six. Thirty-six. Thank you.
- 15 Do you know how many miles Mr. Andersson's
- 16 vessel was from Aruba when he changed course for
- 17 Puerto Rico.
- 18 A. I'm not sure offhand, but you can extrapolate it
- 19 by his statement of the speed he was doing and
- 20 the direction he was heading in.
- 21 Q. Do you remember -- is there anywhere in his
- 22 deposition Mr. Andersson stated how fast his
- 23 vessel was going?
- 24 A. As I recall, it was between 8 and 9 knots.

0018

- 1 Q. Can you repeat that.
- 2 A. As I recall, between 8 and 9 knots.
- 3 Q. From Aruba, do you know Mr. Andersson's bearing
- 4 from Aruba when he changed course for
- 5 Puerto Rico?
- 6 A. Apparently, the bearing was about 60 degrees.
- 7 060.
- 8 Q. How did you determine that?
- 9 A. I think it's stated in the report.
- 10 Q. Whose report?
- 11 A. Mr. Andersson's. I think his initial talk with
- 12 Mr. Ball.
- 13 Q. Looking at paragraph 7 of your report, what is
- 14 the basis for your statement that recreational
- 15 sailors are not expected to keep a paper log
- 16 during their voyages?
- 17 A. It's not required by law. As my -- with modern
- 18 navigational practices, your log and track is
- 19 kept on the chartplotter.
- 20 It traces your every movement; your track.
- 21 So you know exactly where you are at any given
- 22 time because it's on a screen in front of you.
- 23 The old logbooks, you had to go and -- in old
- 24 days before you had GPS, you had to log your

0019

1 position or estimated position; but in order --
2 in case of an emergency with a ship going down,
3 you could send out a mayday or pan-pan requiring
4 assistance and give your last heading -- last
5 bearing -- your last bearing and your last
6 position as recorded by the log. That was the
7 only reason for that.

8 But in today's day and age, everything's on a
9 screen in front of you 24 hours a day. As long
10 as your equipment is on, your position is right
11 in front of you.

12 Q. Have you ever read any instruction manual stating
13 that recreational sailors in the Caribbean are
14 not expected to keep paper logs?

15 A. I haven't read an instruction that way, no, but
16 it's not done.

17 Q. Have you ever read any educational materials
18 stating that recreational sailors in the
19 Caribbean are not expected to keep paper logs?

20 A. I think you just asked that question.

21 Q. I'm sorry. I didn't understand that. Can you
22 repeat, please.

23 A. I think you've just asked that question.

24 Q. So your answer to my second question is the same

0020

1 as your first?

2 A. I do not think it is required, and I haven't read
3 papers of it. I'm just saying what is practiced.

4 Q. Have you ever instructed a recreational sailor
5 sailing in the Caribbean that it wasn't necessary
6 to keep paper logs?

7 A. I have not instructed anyone to do that, no.

8 Q. Are commercial sailors expected to keep paper
9 logs?

10 A. Commercial vessels, I'd assume so. I'm not a
11 hundred percent sure.

12 Although they have the same modern technology
13 that everybody else has; plus their vessels have
14 to have AIS which tracks them automatically. By
15 law, a commercial vessel has to have AIS.

16 Q. Do you know if the vessel's GPS or chartplotter
17 was capable of recording the speed of the wind
18 during any portion of the trip from Aruba to the
19 Dominican Republic?

20 A. His chartplotter, maybe not; but the wind
21 instruments would be able to give a reading.

22 Q. I'm sorry. Can you repeat that?

23 A. His chartplotter, I'm not sure what the
24 capabilities of his chartplotter are; but his

0021

1 wind instruments would have told him the speed of
2 the wind.

3 Q. Was his GPS capable of telling him the speed or
4 direction of the wind?

5 A. A GPS tells you a fix. It tells you where you
6 are. It gives you a point on the planet where
7 you are.

8 Q. What wind instruments did Mr. Andersson have
9 aboard his vessel?

10 A. That will be on the surveyor's report, but more
11 than likely Raymarine.

12 Q. Do you know if the GPS, chartplotter, or any
13 other instrument on Mr. Andersson's vessel was
14 capable of recording the speed or the direction
15 of the current?

16 A. No, you don't get that. Well, you can. It's
17 possible.

18 Q. Were any of his devices on board his vessel
19 recording the speed or direction of the current?

20 A. It wouldn't record it, but it will tell what you
21 it is in certain plotters.

22 I just want to make a little distinction. A
23 GPS chartplotter is a misnomer. A GPS feeds into
24 a chartplotter.

0022

1 Q. In your opinion, at any point in Mr. Andersson's
2 voyage from Aruba to the Dominican Republic, were
3 the weather conditions such that the vessel could
4 not have returned to Aruba?

5 A. At what point of his voyage?

6 Q. I'm sorry. You'll have to repeat that.

7 A. At what point of his voyage?

8 Q. On any point, could the vessel have returned to
9 Aruba?

10 A. He could have turned around, yeah.

11 Q. Is there any point in the -- in the voyage when
12 it could not have returned to Aruba?

13 A. No, you could return to Aruba pretty much
14 anytime.

15 Q. Can you please read paragraph 8 of your report to
16 yourself, and then tell me when you're done.

17 A. Okay. I'm done.

18 Q. In your report, there is -- in paragraph 8,
19 there's a sentence that begins The recommended
20 course to avoid Venezuelan pirates.

21 A. Yes, it's a recommended distance.

22 Q. Excuse me. Can you tell me who recommends that
23 vessels stay at least 200 miles from Venezuela?

24 A. That would be recreational mariners who traverse

0023

1 those waters.

2 It's just prudent because of the acts of
3 piracy and the escalation of piracy in these
4 areas.

5 Q. In 2019, how many times did Venezuelan pirates
6 attack recreational vessels that were more than
7 20 miles from the coast of Venezuela?

8 A. I don't have that information on me.

9 Q. Do you know how many pirate attacks there were in
10 that vicinity in 2018 on recreational vessels?

11 A. Again, I don't have that information in front of
12 me. It is documented. You can get it.

13 Q. Do you know how many there were in 2017?

14 A. Not offhand. You want me to pull it up for you?

15 Q. In 2019, do you know how many times Venezuelan
16 pirates attacked recreational vessels in the
17 waters surrounding Aruba?

18 A. Not offhand.

19 Q. Do you know that information for 2018 or 2017?

20 A. Can I just take a break so I can go and pull up
21 this information for you?

22 Q. No, please do not do that.

23 A. If you're asking me the questions, then it'd be
24 better to actually pull them up so I can answer

0024

1 your questions.

2 Q. Please do not refer to anything else. Just
3 answer from your memory.

4 MS. NIEMEYER: I'm going to object to this.

5 Michael, there were some articles that were
6 provided to you that were part of the materials
7 that Captain Geiger reviewed, and I -- as part of
8 the disclosure, I really don't think it's
9 appropriate for you to tell him he's not allowed
10 to refer; and if so, I'm going to advise
11 Captain Geiger to just don't guess and if you
12 don't remember, reference those articles; and
13 that's the end of that.

14 MR. GOLDMAN: That certainly is, and you're
15 welcome to ask him on your time.

16 BY MR. GOLDMAN:

17 Q. Do you recall in 2019 how many times Venezuelan
18 pirates attacked recreational vessels in the
19 waters surrounding Curaco and Bonaire?

20 A. Again, I do not have that information in front of
21 me.

22 Q. Do you recall for 2018 or 2017?

23 A. I do not have that information in front of me.

24 Q. Can you please read paragraph 11 of your report,

0025

1 and then tell me when you're done.

2 A. Okay. I'm done with paragraph 11.

3 Q. What is a daggerboard?

4 A. It's a long, keel-like attachment that lowers
5 down through the hull of a catamaran,
6 specifically Catanas, to stop sideways slippage.

7 Q. Can you explain to this landlubber the difference
8 between a daggerboard and a centerboard?

9 A. Well, a catamaran doesn't have a centerboard
10 because it doesn't have a center. It has two
11 hulls. And because it has two hulls, it doesn't
12 need a keel which a monohull needs to stay
13 balanced because of the sail so it doesn't blow
14 over.

15 So it has two hulls; so it's automatically
16 stabilized because it's got two hulls. But that
17 means it doesn't need the keel; so it can
18 potentially lead to sideways slippage or moving
19 sideways when the wind blows. So the
20 daggerboards, which extend up to 9 feet down into
21 the water below the vessel, stop that slippage,
22 counteracts it on a Catana because it doesn't
23 have a keel.

24 A vessel like a Leopard has a type of boot

0026

1 underneath the vessel which acts as a sort of
2 keel to stop it, which reduces the sideways
3 slippage.

4 Catanas extend much deeper in the water; so
5 it acts as a keel while the boat is sailing.
6 They have one on each hull.

7 Q. Can you look at paragraph 15 of your report, read
8 it to yourself, and then tell me when you're
9 done.

10 A. Yeah, I'm done reading it.

11 Q. To the best of your knowledge, were the
12 conditions in Boca Chica at the time of the
13 grounding the same as the conditions reported by
14 the cruise ship 60 miles away?

15 A. They would have been the same, yes.

16 Q. Did you check any other source to determine the
17 weather in Boca Chica at the time of the
18 grounding?

19 A. I did not, but 60 miles away is not far enough to
20 change conditions.

21 Q. On a voyage from Aruba to the Dominican Republic,
22 how many miles would a vessel have to travel to
23 keep within the navigational limits permitted in
24 Mr. Andersson's policy?

0027

1 A. I would need to pull up a chart to give you an
2 accurate answer.

3 Q. Are you familiar with the International
4 Regulations for the Prevention of Collisions at
5 Sea?

6 A. Yeah.

7 Q. Did COLREGs apply to recreational vessels?

8 A. Yes.

9 Q. In your expert opinion, for a vessel to be
10 seaworthy, does the vessel have to have current
11 accurate charts for areas that the vessel owner
12 does not intend to navigate?

13 MS. NIEMEYER: Objection to form.

14 Again, Michael, if you're going to on one
15 hand ask Captain Geiger if he's done legal
16 research and on the other ask questions about
17 unseaworthiness, if this is the point where you
18 reveal to him how you want to define the word
19 seaworthiness.

20 MR. GOLDMAN: I am not revealing how I want
21 to define seaworthiness.

22 I want him to give his answer with respect to
23 what he thinks seaworthiness is.

24 MS. NIEMEYER: I'm going to object to the

0028

1 question.

2 MR. GOLDMAN: Thank you.

3 MS. NIEMEYER: You can answer.

4 MR. GOLDMAN: Let me ask it again to make
5 sure the record's clear.

6 BY MR. GOLDMAN:

7 Q. In your expert opinion, for a vessel to be
8 seaworthy, must a vessel have current accurate
9 charts for the areas that the vessel owner does
10 not intend to navigate?

11 A. No. And I would like to elaborate on that
12 because --

13 Q. No, thank you.

14 A. -- I am not sailing in the Caribbean and --

15 Q. No, thank you.

16 MS. NIEMEYER: He has --

17 A. -- don't carry specific charts.

18 BY MR. GOLDMAN:

19 Q. Repeat your elaboration, please, because we were
20 all speaking over one another.

21 A. I would not be required to carry charts of the
22 Pacific if I'm sailing in the Caribbean.

23 Q. In your expert opinion, for a vessel to be
24 seaworthy, must a vessel have current accurate

0029

1 charts for the areas that the vessel owner does
2 intend to navigate?

3 A. It would be prudent, yes.

4 MR. GOLDMAN: That's all I have. Thank you
5 very much.

6 MS. NIEMEYER: I just have a couple of
7 follow-up questions.

8 FURTHER EXAMINATION

9 BY MS. NIEMEYER:

10 Q. You were asked some questions about paper logs
11 and whether they were required by recreational
12 sailors, and specifically you were asked a
13 question about why -- whether you have instructed
14 recreational sailors not to keep paper logs.

15 Can you expand on that and explain why you
16 would not have instructed a recreational sailor
17 not to -- can you explain -- is there any reason
18 why you would instruct them about paper logs?

19 A. Due to the fact that the chartplotters we have
20 today record your track and every movement and on
21 your chartplotters on your vessels your position
22 is in front of you all the time, should you have
23 an emergency, you read directly off the
24 chartplotter your position, which will give you

0030

1 your latitude and longitude to the position that
2 you're currently in, having a log sort of falls
3 away. It's more of a traditional thing than it
4 is one of necessity.

5 Like I said, in the old days, which wasn't
6 that long ago, you needed to determine your
7 position with a sextant or Loran-C positioning
8 system. You never had it in front of you 24/7;
9 so you kept a logbook so if an emergency should
10 arise, you could refer to your last entry in your
11 log to give out your position over the radio.

12 But in today's world with modern technology,
13 your position is always changing in front of you.
14 It constantly updates your position, and you can
15 read it straight off the screen if you have an
16 emergency straight into your radio or satellite
17 phone.

18 So I don't personally instruct people not to
19 keep paper logs. It's a matter of choice;
20 personal choice. If they want to, they want to;
21 but I have never instructed anybody not to keep
22 them, purely because I think it's a personal
23 choice and it's not my position to say whether
24 they should keep one or not because I personally

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1 find it to be irrelevant and obsolete in this day
2 and age.

3 Q. Okay. And you were asked some questions --
4 several questions about whether it would be
5 feasible for the vessel to return to Aruba at any
6 given point during the voyage, and you offered
7 that of course the vessel could have returned to
8 Aruba; but the question I have for you is in your
9 opinion, at the point in the voyage when
10 Mr. Andersson made his decision to shift his
11 course as he headed north, would it have been
12 advisable at that point in the voyage to turn
13 around and go back to Aruba as opposed to taking
14 the course that he chose to take?

15 A. Let me just elaborate a little if I may on that
16 question.

17 You could turn around and go anywhere in the
18 Caribbean should you require it, but as Mr. Ball
19 states in his deposition, conditions at the time
20 that he left are pretty normal for the Caribbean
21 at that time of the year with the trade winds and
22 current. It's not going to change anytime soon.
23 So his choice would be either leave the boat
24 there indefinitely in Aruba and never leave or

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1 sail west to Panama and places beyond, which is
2 the complete opposite direction that he would be
3 going to in -- if he chose to go to Saint Martin,
4 but due to navigational limits imposed on him by
5 the insurance company, he has to stay within 150
6 miles of a shoreline, makes it pretty difficult
7 to sail against the prevailing wind and current
8 to get to where you want to go, which is up to
9 Saint Martin was his original intended
10 destination. Whereas, if he wasn't required to
11 stay within those navigational limits of 150
12 nautical miles and he went due north, he could
13 island hop from island to island and pick up
14 relative shelter in the lee of the islands and
15 made a much safer passage that way.

16 I don't understand why the insurance
17 company -- I think the insurance company puts a
18 150 nautical mile navigational limit for US
19 waters because that's what their workbook, but
20 they don't seem to understand waters of the
21 Caribbean or offshore.

22 I mean, when you're in deep offshore, you're
23 highly unlikely to hit something or run into
24 something because you're just in deep ocean and

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1 the swells usually flatten out in deep water; but
2 when you go into shallow water, it becomes a
3 little bit more of an obstacle.

4 Q. Okay. So, again, would it in your opinion have
5 been -- if you were faced with the choice that
6 Martin Andersson was faced with at the point
7 where he made the decision to change his course
8 in rough conditions and with a seasick crew
9 member, would you have -- do you believe it would
10 have been a better choice to go back to Aruba or
11 to shift his course the way he did?

12 A. Shifting of course more northerly would have --
13 well, you would have been going across the swell
14 and wave height; so you would have made way to --
15 more or less towards your destination and made
16 the passage a lot more comfortable for yourself
17 and your crew.

18 You could turn around and run, but eventually
19 you've got to come back again; and conditions
20 aren't going to change. There's -- you're in the
21 trade-wind belt over there; so the winds are
22 pretty constant. Aruba, Bonaire, Curaco are very
23 well-known for their wind surfing and kite
24 surfing as a destination because the winds are

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1 consistently blowing throughout the year.

2 You're in a trade-wind belt; so you have very
3 few days when there's no wind blowing. So those
4 conditions are, when he left, pretty normal,
5 around 18 knots, for that area of the Caribbean;
6 and the only way to get to where he was going was
7 either heading towards the coast of Venezuela to
8 sail south or due west, which would be going
9 straight into the wind and the prevailing current
10 which blows through the Caribbean and then up the
11 coast of Florida, or more northerly, which would
12 have been a fairly standard, quick, easy way to
13 go or could have sailed the opposite direction of
14 where he wanted to go, which would be west.

15 So any point west he could have gone; he
16 could have turned, but that was not his intended
17 destination.

18 Why would he go backwards? He could have.

19 Q. Let me just ask a question for clarification.

20 I believe I heard you say west in the same
21 phrase as you said into the current and
22 conditions.

23 Did you mean to say east there?

24 A. Well, easterly course would take you into --

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1 directly into the prevailing wind and current,
2 which would make for a very uncomfortable passage
3 and cause those who are affected by seasickness
4 to get sick because it would be a very bumpy or
5 bouncy ride.

6 Q. Is it possible for a catamaran to sail directly
7 into the wind?

8 A. No, impossible.

9 Q. What would be --

10 A. A catamaran cannot sail -- sorry.

11 Q. What would be the closest angle to the wind that
12 a catamaran could sail? Particularly a Catana
13 like this one.

14 A. I'd say it'd probably get as close to 40 or 50
15 degrees into the wind. Maybe slightly higher,
16 but I'd say about 40 thereabouts would be the
17 closest to the wind.

18 Q. Now, in the course of creating your opinion, did
19 you look at information and photographs related
20 to the chart that was in the -- the supplemental
21 chart that was in the Garmin chartplotter?

22 A. I looked at the photograph of the chart, yes.

23 Q. And what was your opinion when you saw that
24 photograph?

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1 A. Well, the chartplotter looked like it had been
2 submerged in water and damaged when they pulled
3 it out; so I think any information on that
4 chartplotter would be irrecoverable, but the
5 chart and the data on the chart is usually for
6 the entire Caribbean.

7 Q. Was it your understanding that there were
8 adequate charts or was adequate information in
9 that chart chip for a recreational sailor who
10 would be traveling in the Eastern Caribbean?

11 A. Yes, the chart chip that he had in there was full
12 of the windward and leeward islands which would
13 have covered Dominican Republic and probably
14 covered the Bahamas and Turks and Caicos as well.

15 Q. Did it also cover the area of the Caribbean
16 intended for the voyage where it would cover the
17 islands of Venezuela, the islands from Grenada
18 north all the way to Saint Martin?

19 A. Yeah, due to the fact that he left Aruba, he
20 would have had charts for that region on his
21 chartplotter. So he would have had the entire
22 Caribbean basin.

23 Q. In your experience, is it the common or expected
24 practice of a recreational sailor to update

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1 supplemental chart chips every time the company
2 comes up with an update?

3 A. You can go online and update those chips if you
4 have a USB and a card reader. Usually the --
5 when you buy the chart in that form, the chip
6 comes with a USB so you can go online to the
7 website and pay for upgrades or whatever they
8 adjust the charts with.

9 Q. Is it your understanding that that would be a
10 standard practice or something that is less
11 commonly done by recreational sailors?

12 A. It's commonly done by recreational sailors.

13 Q. Would you consider the chart -- the 2015 chart
14 that was in the vessel --

15 A. Yeah, that chart itself might have been
16 manufactured in 2015 since it's dated that way,
17 but if you go online with the chart, you can
18 update charts on your chartplotter.

19 So you download the charts online, and you
20 transfer them over to your chartplotter on the
21 cloud or the memory slot, and it keeps everything
22 updated.

23 I just did that on my vessel the other day.
24 You don't need to buy a new set of charts. You

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1 use the same chart to download the current charts
2 online. It just updates your charts to the
3 latest -- the latest information out there for
4 that region.

5 Q. Are you aware -- if the chart's then updated in
6 the manner you're describing, would the chip
7 itself reflect that? Or would you have to go
8 into the information in the chartplotter to know
9 whether that update was made?

10 A. The information in the chartplotter would be
11 where you'd get it from. It would show you when
12 updates were done and what the latest -- what
13 version of charts you have on -- on the
14 chartplotter.

15 Q. Okay. So if the chartplotter no longer works
16 because it's been destroyed, it's not possible to
17 tell whether the chart was updated; is that
18 correct?

19 A. Yeah, I would think that, because you wouldn't be
20 able to turn it on to let you know what the last
21 update was and what updates are available.

22 Q. Okay. Now --

23 A. I'm saying you need to be able to turn it on.

24 Q. Based on the -- when you gave your report, you --

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1 you reviewed a number of things including
2 Mr. Andersson's deposition, Mr. Ball's report,
3 and a number of things which were delineated; and
4 you see the report before you.

5 Is that report your opinion as an expert
6 sailor with a great deal of sailing experience in
7 catamarans about the status of the conditions, et
8 cetera, during the voyage and what you believe to
9 be the truth?

10 A. I'm sorry. Could you repeat the question.

11 Q. Yeah. And I'll -- I'll retract that question.

12 Having reviewed the things you reviewed, is
13 the written report which we've been looking at an
14 expression of your opinion as an expert based on
15 what you reviewed?

16 A. Of my report?

17 Q. Your report.

18 A. Yes.

19 Q. Is it your opinion?

20 A. Yes, it's my opinion from having sailed those
21 waters and being based down there and having
22 taken boats from the Caribbean to South America
23 and from delivering boats from South Africa to
24 the Caribbean and to the US, it's my view that

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1 the conditions in my report are fairly accurate
2 as to the way I'm reading it and why it got to
3 where it got.

4 MS. NIEMEYER: Okay. I have no further
5 questions.

6 MR. GOLDMAN: I have nothing. I think we're
7 done.

8 (Geiger Exhibit No. 44 was marked for
9 identification.)

10 (Conclusion of proceedings at 10:01 a.m. this date.)

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1 CERTIFICATE

2 I, Karen D. Pomeroy, a Registered Diplomate
 3 Reporter and Notary Public in and for the
 4 Commonwealth of Massachusetts, do hereby certify that
 5 Otto A. Geiger, the witness whose deposition is
 6 hereinbefore set forth, was duly remotely sworn by me
 7 and that such deposition is a true and accurate
 8 record, to the best of my knowledge, skills and
 9 ability, of the testimony given by such witness.

10 I further certify that I am not related to any of
 11 the parties in this matter by blood or marriage and
 12 that I am in no way interested in the outcome of this
 13 matter.

14 IN WITNESS WHEREOF, I have hereunto set my hand
 15 and affixed my seal of office this 28th day of March,
 16 2022.

17
 18
 19 _____
 Notary Public

20
 21 My Commission expires:
 June 13, 2025

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1 ERRATA SHEET

2 CHANGES TO THE DEPOSITION OF OTTO A. GEIGER
 3 INSTRUCTIONS TO WITNESS: 1) Please note any desired
 4 corrections to your testimony by page and line
 5 number. 2) Enter text as it appears in the
 transcript. 3) Enter text as it should appear.

6 PAGE LINE CORRECTION

7 _____
 8 _____
 9 _____
 10 _____
 11 _____
 12 _____
 13 _____
 14 _____
 15 _____
 16 _____

17 I, Otto A. Geiger, do hereby certify that I have
 18 read the foregoing transcript of my testimony, and I
 19 further certify that said transcript is a true and
 20 accurate record of said testimony.

21 Dated at _____, this ____ day
22 of _____, 20____.
23

24 _____
Otto A. Geiger